

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 88 MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 88 MEDICINE AND SURGERY AND OSTEOPATHIC MEDICINE AND SURGERY

88-001 SCOPE AND AUTHORITY: These regulations are intended to implement the laws governing the practice of Medicine and Surgery and Osteopathic Medicine and Surgery pursuant to Neb. Rev. Stat. §§ 71-1,102 to 71-1,107.30, 71-1,137 to 71-1,141 and the Uniform Licensing Law.

88-002 DEFINITIONS

Act means Neb. Rev. Stat. § 71-1,102 et seq. known as the Practice of Medicine and Surgery.

Accredited School or College of Medicine means a United States or Canadian school or college which conforms to the standards required for accreditation by the Liaison Committee on Medical Education (LCME) sponsored by the Association of American Medical Colleges and the American Medical Association and is approved by the Department, upon recommendation of the Board.

Accredited School or College of Osteopathic Medicine means a school or college which conforms to the standards required for accreditation by the American Osteopathic Association Bureau of Professional Education and is approved by the Department, upon recommendation of the Board.

Approved Graduate Medical Education means a program of graduate medical education approved by the Accreditation Council for Graduate Medical Education (ACGME) served in the United States or Canada, or any program the Board deems comparable to the requirements of ACGME, and approved by the Department upon recommendation of the Board.

Approved Graduate Osteopathic Medical Education means a program of graduate medical education approved by the Council on Postdoctoral Training (COPT) served in the United States, or any program the Board deems comparable to the requirements of COPT, and approved by the Department upon recommendation of the Board.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board Medicine and Surgery.

Completed application means an application with all of the information requested on the application filled in, the signature of the applicant verified, fees and all required documentation submitted.

Completed petition for reinstatement means a petition with all of the information requested on the petition filled in, the signature of the applicant verified, fees and all required documentation submitted.

Comprehensive Osteopathic Medical Variable Purpose Examination for the United States of America (COMVEX-USA) means the examination made available by the National Board of Osteopathic Medical Examiners.

Department means the Department of Health and Human Services Regulation and Licensure.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. §82-3201, for performance of the duties set out in that statute.

FLEX Weighted Average means the formula used to determine the examination score for the FLEX examination administered prior to 1985. Such formula is as follows: Day 1 score multiplied by 1; Day 2 score multiplied by 2; Day 3 score multiplied by 3. The total of these three scores is divided by 6 which equals the FLEX Weighted Average.

Foreign Medical Graduate means a graduate of a school or college of medicine not in the United States or Canada.

Health Professional Shortage Area means a geographic area designated a health profession shortage area by the Nebraska Rural Health Advisory Commission.

Licensing examination means the: 1. Federation Licensing Examination (FLEX), developed by the Federation of State Medical Boards of the United States of America, Inc.; 2. The National Board of Medical Examiners (NBME); 3. The National Board of Osteopathic Medical Examiners (NBOME); 4. Comprehensive Osteopathic Medical Examination (COMLEX); 5. Licentiate of the Medical Council of Canada (LMCC); and 6. The United States Medical Licensing Examination (USMLE) in any of the following combinations:

1. USMLE Step 1, Step 2, and Step 3;
2. NBME Part I or USMLE Step 1 plus NBME Part II or USMLE Step 2 plus NBME Part III or USMLE Step 3;
3. FLEX Component 1 plus USMLE Step 3; or
4. NBME Part 1 or USMLE Step 1 Plus NBME Part II or USMLE Step 2 plus FLEX Component 2.

An applicant who fails to pass any part of the licensing examination within four attempts must complete one additional year of post graduate medical education at an accredited school or college of medicine or osteopathic medicine.

All parts of the licensing examination must be successfully completed within seven years, except that if the applicant has been enrolled in a combined doctorate of medicine and doctorate of philosophy degree program in an accredited school or college of medicine, all

parts of the licensing examination must be successfully completed within ten years. An applicant who fails to successfully complete the licensing examination within the time allowed must retake that part of the examination which was not completed within the time allowed.

If the FLEX examination is used prior to 1985, the method must document that the examination was administered and passed at one sitting.

If a FLEX examination is taken, a FLEX weighted average of 75 must be attained if examined prior to January 1, 1985. A grade of 75 is required in each component administered after January 1, 1985.

Locum Tenens means a physician and surgeon who is duly licensed to practice medicine and surgery in another state who has been recommended by the secretary of the Board of Examiners in the state of licensure and who has been granted temporary practice rights by the Board, with the approval of the Department, for a period not to exceed three months in any 12 month period.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 88.

Person means an individual, not a corporation, partnership, or other business entity.

Reciprocity Examination means an examination which is determined to be comparable by the Board to a licensing examination, such as the Special Purpose Examination (SPEX) made available by the Federation of State Medical Board of the United States, Inc., or a state board examination.

Special Purpose Examination (SPEX) means the examination made available by the Federation of State Medical Boards of the United States, Inc.

Unprofessional conduct means conduct as defined by Neb. Rev. Stat. § 71-148 or as defined by 172 NAC 88-013.

88-003 REQUIREMENTS FOR ISSUANCE OF LICENSE TO PRACTICE MEDICINE AND SURGERY: Any person who wishes to practice Medicine and Surgery must obtain a license. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

88-003.01 License To Practice Medicine and Surgery Obtained By Examination: To obtain a license by examination on the basis of medical education received in the United States or Canada, an applicant must:

88-003.01A Have graduated from an accredited school or college of medicine; and

88-003.01B Have successfully completed one year of approved graduate medical education; and

88-003.01C Have successfully passed a licensing examination; and

88-003.01D Maintenance of Competency: Meet one of the following within the three years immediately preceding the application for licensure:

1. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
2. Have had at least one year of approved graduate medical education; or
3. Have completed at least 75 hours of Category 1 continuing medical education approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA); or
4. Have completed a refresher course in medicine and surgery approved by the Board; or
5. Have completed the special purposes examination approved by the Board.

88-003.01E Have attained at least the age of 19; and

88-003.01F Have good moral character; and

88-003.01G Submit to the Department:

1. A completed application for a license to practice medicine and surgery which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format.
 - a. Indicate the licensing examination or reciprocity examination which you successfully completed.
 - b. Applicant information: legal name, address, telephone number (optional), place and date of birth, Social Security Number.
 - c. Answer the following questions yes or no. If you answer yes, explain the circumstances and outcome.
 - (1) Have you ever sought or been granted medical licensure under another name? If yes, indicate other name(s) used.
 - (2) Have you ever held a license in any health profession in the State of Nebraska? If yes, explain.
 - (3) Have you ever held a license in any jurisdiction in a health profession other than medicine and surgery? If yes, explain.
 - d. Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of medical college and date of graduation; if your medical college is not accredited indicate your ECFMG number.
 - e. Post-Graduate Medical Education: name and location of institution for each post-graduate medical education program

- attended, name of the internship, residency or fellowship, and beginning and ending date of each program.
- f. Indicate whether you have ever been granted a medical license in any state or territory. If yes, list all current and non-current licenses, including the state or territory, the license number, effective and expiration dates.
- g. Maintenance of Competency: Indicate that, within the three years immediately preceding the application for licensure, you meet one of the following criteria:
- (1) Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
 - (2) Have had at least one year of approved graduate medical education; or
 - (3) Have completed at least 75 hours of category 1 continuing medical education as approved by the ACCME or AOA; or
 - (4) Have completed a refresher course in medicine and surgery approved by the Board; or
 - (5) Have completed the special purposes examination approved by the Board.
- h. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome:
- (1) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority ever taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your license on probation?
 - (4) Have you ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (5) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (6) Have you ever been requested to appear before any licensing agency?
 - (7) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your license in any

- jurisdiction?
- (10) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) During the past ten years have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) During the last ten years have you been diagnosed with or treated for bipolar disorder; schizophrenia, or any psychotic disorder?
 - (13) Have you ever been convicted of a felony?
 - (14) Have you ever been convicted of a misdemeanor?
 - (15) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (16) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (17) Have you ever surrendered your state or federal controlled substances registration?
 - (18) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (19) Have you ever been notified of any malpractice claim against you?
- i. List in chronological order all medical activities since graduation from medical college, including absences from work except incidental sick leave and usual vacation;
 - j. Indicate whether or not you hold a Federal Controlled Substances Registration. If yes, list the number and expiration date.
 - k. Notarized statement from the applicant that states that that the statements on the application are true and complete and that applicant is of good moral character.
- 2. Official documentation showing successful completion of an accredited school or college of medicine sent directly to the Department from the school or college; and
 - 3. Official documentation showing successful completion of one year of approved graduate medical education, on a form provided by the Department, sent directly to the Department from the program; and
 - 4. Official documentation showing passing scores obtained on all parts of the licensing examination, submitted directly to the Department from the official repository of scores; and
 - 5. Certification from each state where applicant has ever held a license that such license has never been suspended, revoked, limited, or disciplined in any manner. If there are any disciplinary actions, the nature of such actions is to be included; and

6. Official documentation of meeting one of the provisions of 172 NAC 88-003.01D (Maintenance of Competency).
7. The required licensure fee.

88-003.02 License to Practice Medicine and Surgery Obtained as a Foreign Medical Graduate: To obtain a license by examination on the basis of medical education received in a foreign country, an applicant must:

88-003.02A Be a foreign medical graduate; and

88-003.02B Have successfully completed three years of approved graduate medical education; and

88-003.02C Have successfully passed a licensing examination; and

88-003.02D Maintenance of Competency: Meet one of the following within the three years immediately preceding the application for licensure:

1. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
2. Have had at least one year of approved graduate medical education; or
3. Have completed at least 75 hours of Category 1 continuing medical education approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA); or
4. Have completed a refresher course in medicine and surgery approved by the Board; or
5. Have completed the special purposes examination approved by the Board.

88-003.02E Have attained at least the age of 19, and

88-003.02F Have good moral character; and

88-003.02G Have one of the following; and

1. Have been issued a permanent certificate by the Educational Commission on Foreign Medical Graduates (ECFMG); or
2. Have successfully passed the Visa Qualifying Examination or its successor or equivalent examination required by the United States Department of Health and Human Services and the United States Immigration and Naturalization Service; or
3. Have successfully completed a program of American medical training designated as the Fifth Pathway and passed the ECFMG Examination;

88-003.02H Submit to the Department:

1. A completed application for a license to practice medicine and surgery which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format.
 - a. All information as listed in 172 NAC 88-003.01G item 1; and
2. Official documentation showing the applicant is a foreign medical graduate, sent directly to the Department from the school or college; and
3. Official documentation showing successful completion of three years of approved graduate medical education, sent directly to the Department from the program; and
4. Official documentation showing passing scores obtained on all parts of the licensing examination submitted directly to the Department from the official repository of scores; and
5. Certification from each state where applicant has ever held a license that such license has never been suspended, revoked, limited, or disciplined in any manner. If there are any disciplinary actions, the nature of such actions is to be included; and
6. Official documentation of meeting one of the provisions of 172 NAC 88-003.02D (Maintenance of Competency).
7. The required licensure fee; and
8. One of the following:
 - a. Official documentation of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates (ECFMG) sent directly to the Department from the ECFMG; or
 - b. Official documentation of successful completion of the Visa Qualifying Examination or its successor; or
 - c. Official documentation of successful completion of a program of American medical training designated as the Fifth Pathway and passage of the ECFMG examination.

88-003.03 License To Practice Medicine and Surgery Obtained by Reciprocity: To obtain a license by reciprocity, an applicant must:

88-003.03A Have successfully passed a reciprocity examination; and

88-003.03B Have been duly licensed to practice medicine and surgery in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the Board finds to be comparable to the requirements of the State of Nebraska for obtaining a license to practice medicine and surgery; and

88-003.03C Have graduated from an accredited school or college of medicine or be a foreign medical graduate; and

88-003.03D Maintenance of Competency: Meet one of the following within the three years immediately preceding the application for licensure:

1. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
2. Have had at least one year of approved graduate medical education; or
3. Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA); or
4. Have completed a refresher course in medicine and surgery approved by the Board; or
5. Have completed the special purposes examination approved by the Board.

88-003.03E Have successfully completed one year of approved graduate medical education if applicant is a graduate of an accredited school or college of medicine, or have successfully completed three years of approved graduate medical education if applicant is a foreign medical graduate; and

88-003.03F Have attained at least the age of 19, and

88-003.03G Have good moral character; and

88-003.03H Submit to the Department:

1. A completed application for a license to practice medicine and surgery which includes the following information. The application may be submitted on a form provided by the Department, or on an alternate format.
 - a. All information as listed in 172 NAC 88-003.01G item 1.
2. Official documentation showing successful completion of an accredited school or college of medicine sent directly to the Department from the school or college, or official documentation showing the applicant is a foreign medical graduate, sent directly to the Department from the school or college; and
3. Official documentation showing successful completion of one year of graduate medical education, if applicant is a graduate of an accredited school or college of medicine, or three years of graduate medical education if applicant is a foreign medical graduate sent directly to the Department from the program; and
4. A certification from each state where applicant has ever held a license that such license has never been suspended, revoked, limited, or disciplined in any manner. If there are any disciplinary actions, the nature of such actions is to be included; and
5. Official documentation of meeting one of the provisions of 172 NAC 88-003.03D (Maintenance of Competency).
6. Documentation that s/he a reciprocity examination; the name of the

- examination on which licensure was based; the method of administering such examination; the scores given at such examination; and how the passing score was determined; and
7. The required licensure fee; and
 8. If applicant is a foreign medical graduate, submit one of the following:
 - a. Official documentation of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates (ECFMG) sent directly to the Department from the ECFMG; or
 - b. Official documentation of successful completion of the Visa Qualifying Examination or its successor; or
 - c. Official documentation of successful completion of a program of American medical training designated as the Fifth Pathway and passage of the ECFMG examination.

88-003.03I The Board reviews the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are comparable to those maintained in medicine in Nebraska and recommends to the Department to issue or deny the license.

88-003.03I1 If the review indicates an applicant's license in the other jurisdiction was not based upon requirements comparable to those of Nebraska, the Board may recommend that the applicant take and pass the SPEX or the COMVEX-USA with a passing score of at least 75 or any other examination approved by the Board.

88-003.04 When a license will expire within 180 days after its initial issuance date, the Department will collect one-fourth of the initial licensing fee, and the license will be valid until the next subsequent renewal date.

88-003.05 The Department will act within 150 days upon all completed applications for licensure.

88-004 REQUIREMENTS FOR ISSUANCE OF LICENSE TO PRACTICE AS AN OSTEOPATHIC PHYSICIAN OR TO PRACTICE OSTEOPATHIC MEDICINE AND SURGERY Any person who wishes to practice as an Osteopathic Physician or practice Osteopathic Medicine and Surgery must obtain a license. The criteria for issuance of a license and the documentation required by the Department and the Board are set forth below.

88-004.01 License To Practice Osteopathic Medicine and Surgery Obtained by Examination: To obtain a license by examination an applicant must:

88-004.01A Have graduated from an accredited school or college of osteopathic medicine and surgery; and

88-004.01B Have successfully completed one year approved graduate medical education or approved graduate osteopathic medical education; and

88-004.01C Have successfully passed a licensing examination; and

88-004.01D Maintenance of Competency: Meet one of the following within the three years immediately preceding the application for licensure:

1. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
2. Have had at least one year of approved graduate medical education; or
3. Have completed at least 75 hours of Category 1 continuing medical education approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA); or
4. Have completed a refresher course in medicine and surgery approved by the Board; or
5. Have completed the special purposes examination approved by the Board.

88-004.01E Have attained at least the age of 19; and

88-004.01F Have good moral character; and

88-004.01G Submit to the Department:

1. A completed application for a license to practice osteopathic medicine and surgery which includes the following information. The application may be submitted on a form provided by the Department; or on an alternate format.
 - a. All information pursuant to 172 NAC 88-003.01G item 1.
2. Official documentation showing successful completion of an accredited school or college of osteopathic medicine and surgery sent directly to the Department from the school or college; and
3. Official documentation showing successful completion of one year of approved graduate medical education or approved graduate osteopathic medical education sent directly to the Department from the program; and
4. Official documentation showing passing scores obtained on all parts of the licensing examination, submitted directly to the Department from the official repository of scores; and
5. Certification from each state where applicant has ever held a license that such license has never been suspended, revoked, limited, or disciplined in any manner. If there are any disciplinary actions, the nature of such actions is to be included; and
6. Official documentation of meeting one of the provisions of 172 NAC 88-003.04D (Maintenance of Competency).
7. The required licensure fee.

88-004.02 License To Practice Osteopathic Medicine and Surgery obtained by Reciprocity:
To obtain a license by reciprocity, an applicant must:

88-004.02A Have successfully passed a reciprocity examination; and

88-004.02B Have been duly licensed to practice osteopathic medicine and surgery in some other state or territory of the United States of America or in the District of Columbia under conditions and circumstances which the Board finds to be comparable to the requirements of the State of Nebraska for obtaining a license to practice osteopathic medicine and surgery; and

88-004.02C Maintenance of Competency: Meet one of the following within the three years immediately preceding the application for licensure:

1. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
2. Have had at least one year of approved graduate medical education; or
3. Have completed at least 75 hours of Category 1 continuing medical education approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA); or
4. Have completed a refresher course in medicine and surgery approved by the Board; or
5. Have completed the special purposes examination approved by the Board.

88-004.02D Have graduated from an accredited school or college of osteopathic medicine; and

88-004.02E Have successfully completed one year of approved graduate medical education or approved graduate osteopathic medical education; and

88-004.02F Have attained at least the age of 19, and

88-004.02G Have good moral character; and

88.004.02H Submit to the Department:

1. A completed application for a license to practice osteopathic medicine and surgery which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format.
 - a. All information pursuant to 172 NAC 88-003.01G item 1.
2. Official documentation showing successful completion of an accredited school or college of osteopathic medicine sent directly to

- the Department from the institution; and
3. Official documentation showing successful completion of one year of approved graduate medical education or approved graduate osteopathic medical education, sent directly to the Department from the program; and
4. A certification from each state where applicant has ever held a license that such license has never been suspended, revoked, limited, or disciplined in any manner. If there are any disciplinary actions, the nature of such actions is to be included; and
5. Official documentation of meeting one of the provisions of 172 NAC 88 –004.02C (Maintenance of Competency).
6. The required licensure fee; and
7. Documentation that s/he successfully passed a reciprocity examination; the name of the examination on which licensure was based; the method of administering such examination; the scores given at such examination and how the passing score was determined.

88-004.02I The Board reviews the documents submitted to determine if the applicant's license issued by the other jurisdiction was based upon requirements which are comparable to those maintained in osteopathic medicine in Nebraska and recommends to the Department to issue or deny the license.

88-004.02I1 If the review indicates an applicant's license in the other jurisdiction was not based upon requirements comparable to those of Nebraska, the Board may recommend that the applicant take and pass the SPEX or the COMVEX-USA with a passing score of at least 75 or any other examination approved by the Board.

88-004.03 License To Practice As An Osteopathic Physician: To obtain a license to practice as an osteopathic physician on the basis of examination, an applicant must:

88-004.03A Have graduated from an accredited school or college of osteopathic medicine; and

88-004.03B Have successfully passed a licensing examination; and

88-004.03C Maintenance of Competency: Meet one of the following within the three years immediately preceding the application for licensure:

1. Have been in the active practice of the profession of medicine and surgery in some other state, a territory, the District of Columbia, or Canada for a period of one year; or
2. Have had at least one year of approved graduate medical education; or
3. Have completed at least 75 hours of Category 1 continuing medical education approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA); or
4. Have completed a refresher course in medicine and surgery

5. approved by the Board; or
Have completed the special purposes examination approved by the Board.

88-004.03D Have attained at least the age of 19; and

88-004.03E Have good moral character; and

88-004.03F Submit to the Department:

1. A completed application to practice osteopathic medicine which includes the following information. The application will be on a form provided by the Department, or on an alternate format.
 - a. All information pursuant to 172 NAC 88-003.01G item 1.
2. Official documentation showing successful completion of an accredited school or college of osteopathic medicine, sent directly to the Department from the school or college; and
3. Official documentation showing passing scores obtained on all parts of the licensing examination, sent directly to the Department from the official repository of scores; and
4. Certification from each state where applicant has ever held a license that such license has never been suspended, revoked, limited, or disciplined in any manner. If there are any disciplinary actions, the nature of such actions is to be included; and
5. Official documentation of meeting one of the provisions of 172 NAC 88-004.03C (Maintenance of Competency); and
6. The required licensure fee.

88-004.04 When a license will expire within 180 days after its initial issuance date, the Department will collect one-fourth of the initial licensing fee, and the license will be valid until the next subsequent renewal date.

88-004.05 The Department will act within 150 days upon all completed applications for licensure.

88-005 REQUIREMENTS FOR ISSUANCE OF TEMPORARY EDUCATIONAL PERMITS The Department may issue a Temporary Educational Permit to any person who is enrolled in an approved graduate medical educational program conducted by an accredited hospital or school or college of medicine.

88-005.01 A Temporary Educational Permit may be issued to graduates of accredited schools or colleges of medicine or osteopathic medicine. These persons must:

1. Have graduated from an accredited school or college of medicine or osteopathic medicine located in the United States or Canada; and
2. Have been accepted into an accredited hospital or school or college of medicine approved graduate program; and
3. Have attained at least the age of 19, and

4. Have good moral character; and
5. Submit to the Department:
 - a. A completed application for a temporary educational permit which includes the following information. The application may be submitted on a form provided by the Department; or on an alternate format.
 - (1) Applicant information: legal name, address, telephone number (optional), place and date of birth, Social Security Number.
 - (2) Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of medical college and date of graduation; if your medical college is not accredited indicate your ECFMG number.
 - (3) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome:
 - (a) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority ever taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed our license on probation?
 - (d) Have you ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (e) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (f) Have you ever been requested to appear before any licensing agency?
 - (g) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (j) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) During the past ten years have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?

- (l) During the last ten years have you been diagnosed with or treated for bipolar disorder; schizophrenia, or any psychotic disorder?
 - (m) Have you ever been convicted of a felony?
 - (n) Have you ever been convicted of a misdemeanor?
 - (o) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you ever surrendered your state or federal controlled substances registration?
 - (r) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (s) Have you ever been notified of any malpractice claim against you?
- (4) Indicate whether or not you hold a Federal Controlled Substances Registration. If yes, list the number and expiration date.
 - (5) Requesting Institution: Official documentation that applicant has been accepted into an approved postgraduate medical education program by an accredited hospital or school or college of medicine, including the name, location and duration of the program.
 - (6) Notarized statement from the applicant that states that the statements on the application are true and complete and that applicant is of good moral character.
- b. Official documentation showing successful completion of an accredited school or college of medicine; and
 - c. The required permit fee.

88-005.02 A Temporary Educational Permit may be issued to foreign medical graduates. These persons must:

- 1. Be a foreign medical graduate; and
- 2. Have been accepted into an accredited hospital or school or college of medicine approved graduate program; and
- 3. Have attained at least the age of 19, and
- 4. Have good moral character; and
- 5. Have one of the following:
 - a. A permanent certificate issued by the Educational Commission on Foreign Medical Graduates, (ECFMG); or
 - b. Successfully passed the Visa Qualifying Examination, or its successor or equivalent examination as required by the United States Department of Health & Human Services and the United States Immigration and Naturalization Service; or

- c. Successfully completed a program of American medical training designated as the Fifth Pathway and passed the ECFMG examination.

And

6. Submit to the Department:

- a. A completed application for a temporary educational permit which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format.
 - (1) All information pursuant to 172 NAC 88-005.01 item 5a.
- b. Official documentation showing the applicant is a foreign medical graduate; and
- c. The required permit fee; and
- d. One of the following:
 - (1) Official documentation of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates (ECFMG) sent directly to the Department from the ECFMG; or
 - (2) Official documentation of successful completion of the Visa Qualifying Examination or its successor; or
 - (3) Official documentation of successful completion of a program of American medical training designated as the Fifth Pathway and passage of the ECFMG examination.

88-005.03 The holder of a Temporary Educational Permit must not engage in the practice of medicine and surgery or osteopathic medicine and surgery outside of the assigned training program. Such programs are:

- 1. Any supervised educational program conducted by an accredited hospital or school or college of medicine; and
- 2. Any approved graduate medical education program conducted by an accredited hospital or school or college of medicine.

88-005.04 Any Temporary Educational Permit will not exceed one year in duration and may be renewed for no more than five one year periods.

88-005.05 Any permit granted pursuant to 172 NAC 88-005 may be suspended, limited or revoked by the Department on the recommendation of the Board at anytime upon a finding that reasons for issuing such permit no longer exist or that the person to whom such permit has been issued is no longer qualified to hold such permit.

88-006 REQUIREMENTS FOR ISSUANCE OF VISITING FACULTY PERMITS: The Department may issue a Visiting Faculty Permit to any person who is serving as a member of the faculty of an accredited hospital or school or college of medicine in Nebraska.

88-006.01 These persons must:

1. Have graduated from an accredited school or college of medicine or be a foreign medical graduate; and
2. Be appointed to the faculty of an accredited school or college of medicine in Nebraska; and
3. Have attained at least the age of 19; and
4. Have good moral character; and
5. Submit to the Department:

a. A completed application for a visiting faculty permit which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format.

- (1) Applicant information: legal name, address, telephone number (optional), place and date of birth, Social Security Number.
- (2) Education: name and location of high school completed and date completed, name and location of pre-medical college and date completed, name and location of medical college and date of graduation; if your medical college is not accredited indicate your ECFMG number.
- (3) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome:
 - (a) Has any state or territory of the U.S. ever taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority ever taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your license on probation?
 - (d) Have you ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (e) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (f) Have you ever been requested to appear before any licensing agency?
 - (g) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (j) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics,

- barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (k) During the past ten years have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) During the last ten years have you been diagnosed with or treated for bipolar disorder; schizophrenia, or any psychotic disorder?
 - (m) Have you ever been convicted of a felony?
 - (n) Have you ever been convicted of a misdemeanor?
 - (o) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you ever surrendered your state or federal controlled substances registration?
 - (r) Have you ever had your state or federal controlled substances registration restricted in any way?
 - (s) Have you ever been notified of any malpractice claim against you?
- (4) Indicate whether or not you hold a Federal Controlled Substances Registration. If yes, list the number and expiration date.
 - (5) Requesting institution: Official documentation that applicant has been appointed to the faculty of an accredited hospital or school or college of medicine in Nebraska, including an outline of the duties to be performed.
 - (6) Notarized statement from the applicant that states that the statements on the application are true and complete and that applicant is of good moral character.
- b. Official documentation showing successful completion of an accredited school or college of medicine; or official documentation showing the applicant is a foreign medical graduate; and
 - c. The required permit fee.

88-006.02 The holder of a Visiting Faculty Permit must not engage in the practice of medicine and surgery or osteopathic medicine and surgery outside of the assigned training program. Such programs are:

1. Any supervised educational program conducted by an accredited hospital or school or college of medicine; and
2. Any approved graduate medical education program conducted by an accredited hospital or school or college of medicine.

88-006.03 Any Visiting Faculty Permit will not exceed one year in duration and may be renewed for no more than five one year periods.

88-006.04 Any permit granted pursuant to 172 NAC 88-006 may be suspended, limited or revoked by the Department on the recommendation of the Board at anytime upon a finding that reasons for issuing such permit no longer exist or that the person to whom such permit has been issued is no longer qualified to hold such permit.

88-007 REQUIREMENTS FOR ISSUANCE OF A LOCUM TENENS PERMIT: A locum tenens permit may be granted to physicians and surgeons who are duly licensed to practice medicine and surgery in another state.

88-007.01 An applicant for such temporary practice rights must:

1. Hold a current license to practice medicine and surgery or osteopathic medicine and surgery in another state;
2. Submit a recommendation from the licensing agency in that state stating that his/her license is current and in good standing.
3. Submit a written request from a duly licensed Nebraska physician or osteopathic physician which states the dates of intended practice of the locum tenens and the reason for requiring a locum tenens because of the unavailability of the physician due to vacation, sickness or hospitalization or other similar leaves of absence; or there is a time of public health emergency in the state of Nebraska such as one arising from incidents of widespread disease, natural or manmade disaster or similar causes.
 - a. A letter of authority to practice may be issued to an applicant by the Department upon the recommendation of the Board when there is a showing of good cause of a need for a locum tenens by a hospital in a health professional shortage
4. Submit an application for temporary practice rights which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format.
 - a. Applicant information:
 1. Legal Name;
 2. Permanent Address;
 3. Place and date of birth;
 4. Social Security Number;
 5. Medical Degree, date of issuance and name of issuing institution;
 6. List total years of active practice;
 7. List states where licensed, issuance date and status;
 8. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome.
 - (a) Has any state or territory of the U.S. ever taken any of the following actions against your license?

- Denied Suspended Revoked Limited
- (b) Has any licensing or disciplinary authority ever taken any of the following actions against your license?
Limited Suspended Restricted Revoked
- (c) Has any licensing or disciplinary authority placed your license on probation?
- (d) Have you ever voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
- (e) Have you ever voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
- (f) Have you ever been requested to appear before any licensing agency?
- (g) Have you ever been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
- (h) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
- (i) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
- (j) Have you ever been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (k) During the past ten years have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
- (l) During the last ten years have you been diagnosed with or treated for bipolar disorder; schizophrenia, or any psychotic disorder?
- (m) Have you ever been convicted of a felony?
- (n) Have you ever been convicted of a misdemeanor?
- (o) Have you ever been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (p) Have you ever been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (q) Have you ever surrendered your state or federal controlled substances registration?
- (r) Have you ever had your state or federal controlled substances registration restricted in any way?
- (s) Have you ever been notified of any malpractice claim against you?
- (9) List dates that temporary practice will begin and end;
- (10) List reason for temporary medical practice;
- (11) List date of last application for Nebraska temporary practice

- rights, if any; and
- (12) Notarized statement from the applicant that states, statements on the application are true and complete.

- b. The required permit fee.

88-007.02 A locum tenens cannot practice in Nebraska for more than 90 days in any 12 month period.

88-008 REQUIREMENTS FOR ISSUANCE OF A GEOGRAPHICALLY LIMITED LICENSE: Any person who is a foreign medical graduate and who wishes to practice medicine and surgery in a health profession shortage area without completion of at least three years approved graduate medical education must apply to the Department for a waiver of approved graduate medical education and obtain a geographically limited license. The criteria for issuance and the documentation required by the Department and the Board are set forth below.

88-008.01 Geographically Limited License Based on Waiver: An applicant for a geographically limited license to practice medicine and surgery on the basis of a waiver of approved graduate medical education, must:

1. Have served at least one year of approved graduate medical education;
2. Meet all requirements 172 NAC 88-003.02 except for serving at least three years of graduate medical education approved by the Board;
3. Submit the following to the Department:
 - a. An application for a license to practice medicine and surgery which includes the following information. The application may be submitted on a form provided by the Department or on an alternate format.
 - (1) All information pursuant to 172 NAC 88-003.01G item 1.
 - b. Official documentation showing the applicant is a foreign medical graduate, on a form provided by the Department, sent directly to the Department from the school or college; and
 - c. Official documentation showing successful completion of one year of approved graduate medical education, on a form provided by the Department, sent directly to the Department from the program; and
 - d. Official documentation showing passing scores obtained on all parts of the licensing examination submitted directly to the Department from the official repository of scores; and
 - e. Certification from each state where applicant has ever held a license that such license has never been suspended, revoked, limited, or disciplined in any manner. If there are any disciplinary actions, the nature of such actions is to be included; and
 - f. Official documentation of meeting one of the provisions of 172 NAC 88-003.02D (Maintenance of Competency).
 - g. One of the following:
 - (1) Official documentation of a permanent certificate issued by the Educational Commission on Foreign Medical Graduates

- (ECFMG) sent directly to the Department from the ECFMG;
or
 - (2) Official documentation of successful completion of the Visa Qualifying Examination or its successor; or
 - (3) Official documentation of successful completion of a program of American medical training designated as the Fifth Pathway and passage of the ECFMG examination.
- h. Satisfactory proof that the issuance of a license based on the waiver of the requirement of more than one year of approved graduate medical education will not jeopardize the health, safety, and welfare of the citizens of Nebraska;
 - (1) Such proof may include but will not be limited to documented equivalent medical education completed in a foreign country.
- i. Proof that s/he will enter into the practice of medicine in a health professional shortage area;
 - (1) Such proof may include but will not be limited to an employment agreement with the hospital or other similar entity in the health profession shortage area.
- j. The required licensure fee.

88-008.02 A license issued on the basis of such a waiver will be subject to the geographic limitation that the licensee continue to practice in a specified health professional shortage area and such other limitation, if any, deemed appropriate under the circumstances by the Director, upon the recommendation of the Board.

- 1. Such additional limitation may include, but will not be limited to, supervision by a medical practitioner, training, education, and scope of practice.

88-008.03 After two years of practice under a limited license issued on the basis of a waiver, a licensee may apply to the Department for removal of the limitation.

- 1. The Director, upon the recommendation of the Board, may grant or deny such application or may continue the license with limitations.

88-009 PROCEDURES FOR RENEWAL OF TEMPORARY PERMITS: All Temporary Educational Permits and Temporary Visiting Faculty Permits issued by the Department under the Act and these regulations expire on July 1 of each year.

88-009.01 Renewal Process: Any permit-holder who wishes to renew his/her permit must:

- 1. Meet the continuing competency requirements pursuant to 172 NAC 88-016;
- 2. Pay the renewal fee as prescribed in 172 NAC 88-015;
- 3. Respond to the following questions:
 - a. Has your license/permit in any profession in another state been

- revoked, suspended, limited or disciplined in any manner?
- b. Have you been convicted of a misdemeanor or felony?

These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.

4. Cause to be submitted to the Department:

- a. The renewal notice;
- b. The renewal fee;
- c. Attestation of completing the continuing competency requirement pursuant to 172 NAC 88-016 earned within 12 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110.
- d. If any disciplinary action was taken against the applicant's license/permit by another state, an official copy of the disciplinary action, including charges and disposition;
- e. If the permit-holder has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the permit-holder explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

88-009.02 First Notice: At least 30 days before July 1 of each year, the Department will send a renewal notice by means of regular mail to each permit-holder at the permit-holder's last place of residence as noted in the records of the Department. It is the responsibility of the permit-holder prior to the renewal period to notify the Department of any name and/or address changes.

88-009.02A The renewal notice must specify:

- 1. The name of the permit-holder;
- 2. The permit-holder's last known address of record;
- 3. The permit number;
- 4. The expiration date of the permit;
- 5. The renewal fee as prescribed in 172 NAC 88-015; and
- 6. The type of continuing competency required for renewal; and
- 7. The option to place the permit on lapsed status.

88-009.02B The permit-holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The permit-holder's social security number;
4. Attestation of completing the continuing competency requirement pursuant to 172 NAC 88-016 within 12 months of the date of expiration or an application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure/permit revocation, suspension, limitation or disciplinary action (if applicable).

88-009.02C If the permit-holder wishes to place his/her permit on lapsed status s/he must:

1. Request that his/her permit be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

88-009.02D The Department will notify the permit-holder in writing of the acceptance or denial of the request to allow the permit to be placed on lapsed status.

88-009.03 Second Notice: The Department will send to each permit-holder who fails to renew his or her permit or place the permit on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 88-009.01 that specify:

1. That the permit-holder failed to pay the renewal fee;
2. That the permit has expired;
3. That the permit-holder is subject to an administrative penalty pursuant to 172 NAC 88-017 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of completing the continuing competency requirement within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of completing the continuing competency requirement, the permit will be revoked pursuant to 172 NAC 88-011.

88-009.03A The permit-holder must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The permit-holder's social security number;
4. Attestation by the licensee:

(a) That s/he has not practiced in Nebraska since the expiration

- of her/his license; or
- (b) To the actual number of days practiced in Nebraska since the expiration of her/his license;
- 5. Attestation of completing the continuing competency requirement pursuant to 172 NAC 88-016 within 12 months of the date of expiration or an application for waiver of continuing competency; and
- 6. Documentation relating to misdemeanor or felony conviction(s) or licensure/permit revocation, suspension, limitation or disciplinary action (if applicable).

88-009.03B If the permit-holder wishes to place his/her permit on lapsed status s/he must:

- 1. Request that his/her permit be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

88-009.03C The Department will notify the permit-holder in writing of the acceptance or denial of the request to allow the permit to be placed on lapsed status.

88-009.04 When any permit-holder fails, within 30 days of expiration of a permit, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke such permit without further notice or hearing and make proper record of the revocation.

88-009.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her permit will constitute non-renewal of a permit, unless a waiver of continuing competency is granted or the permit is placed on lapsed status. When any permit-holder fails, within 30 days of expiration of a permit to meet the continuing competency requirements for renewal, the Department revokes the permit after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

88-009.06 When the permit-holder has given notification to the Department that s/he desires to have the permit lapse upon expiration, 172 NAC 88-009.04 and 88-009.05 will not apply.

88-009.07 The Department may refuse to renew a permit for falsification of any information submitted for renewal of a permit. Such refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

88-009.08 An individual who practices after expiration of her/his credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 88-017, or such other action as provided in the statutes and regulations governing the credential.

88-010 PROCEDURES FOR RENEWAL OF LICENSE: All licenses for Medicine and Surgery and for Osteopathic Medicine and Surgery issued by the Department under the Act and these

regulations expire on October 1, of each even-numbered year.

88-010.01 Renewal process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements pursuant to 172 NAC 88-016;
2. Pay the renewal fee pursuant to 172 NAC 88-015;
3. Respond to the following questions:
 - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?

These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.

4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing the continuing competency requirement pursuant to 172 NAC 88-016 earned within 24 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110.
 - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the licensee explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

88-010.02 First Notice: At least 30 days before October 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

88-010.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 88-015; and
6. The type of continuing competency required for renewal; and
7. The option to place the license on either inactive or lapsed status:

88-010.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing the continuing competency requirement pursuant to 172 NAC 88-016 within 24 months of the date of expiration or an application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

88-010.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

88-010.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

88-010.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 88-010.01 that specify:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 88-017 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of completing the continuing competency

5. requirement within that time, no order of revocation will be entered; and That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of completing the continuing competency requirement, the license will be revoked pursuant to 172 NAC 88-011.

88-010.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - a. That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - b. To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing the continuing competency requirement pursuant to 172 NAC 88-016 within 24 months of the date of expiration or an application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action.

88-010.03B If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
 - a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

88-010.03C The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

88-010.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke such license without further notice or hearing and make proper record of the revocation.

88-010.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing

competency requirements for renewal, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

88-010.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 88-010.04 and 88-010.05 will not apply.

88-010.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

88-010.08 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 88-017, or such other action as provided in the statutes and regulations governing the credential.

88-011 REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS The Department automatically revokes credential within 30 days of its expiration, without further notice or a hearing, when the credential-holder fails to meet the renewal requirements.

88-011.01 Revocation for Nonpayment of Renewal Fee: When a credential-holder fails to pay the required renewal fee or fails to request that his/her credential be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the credential without further notice or a hearing.

88-011.01A The revocation notice specifies that the:

1. Credential-holder was given a first and second notice of renewal requirements and the respective dates for these notices;
2. Credential-holder either failed to renew the credential or to have his/her license placed on inactive or lapsed status;
3. Department has revoked the credential;
4. Credential-holder has a right to appeal the revocation; and
5. Credential-holder has a right to reinstatement of the credential.

88-011.02 Revocation for Failure to Meet Continuing Competency Requirements.

88-011.02A When a credential-holder fails within 30 days of the expiration of his/her credential to meet the continuing competency requirement for credential renewal, the Department revokes his/her credential after notice and opportunity for a hearing.

1. The revocation notice for failure to meet continuing competency requirements specifies that the:
 - a. Credential-holder was given first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
 - b. Credential-holder either failed to renew the credential or to have his/her credential placed on inactive or lapsed status;

- c. Department will revoke the credential within 30 days of the date of the notice unless the credential-holder requests in writing a hearing;
- d. Credential-holder has a right to appeal the revocation; and
- e. Credential-holder has a right to reinstatement of the credential.

88-012 GROUND ON WHICH THE DEPARTMENT MAY LIMIT, PLACE ON PROBATION, DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE OR PERMIT:

88-012.01 The Department will deny an application for a license or permit when the applicant fails to meet the requirements for issuance of a license or permit.

88-012.02 The Department will refuse renewal or reinstatement of a license or permit if the licensee or permittee fails to meet the requirements for renewal or reinstatement of a license or permit.

88-012.03 The Department may deny, refuse renewal or reinstatement of, limit, suspend, place on probation, discipline or revoke licenses or permits for any of the following grounds.

- 1. Fraud, forgery, or misrepresentation of material facts, in procuring or attempting to procure a license or permit.
- 2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state.
- 3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01.
- 4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's or permittee's fitness or capacity to practice the profession.
- 5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession.
- 6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.
- 7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.
- 8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so.
- 9. Having had his/her license or permit denied, refused renewal, limited, suspended, or revoked or having had such license or permit disciplined in any other manner in accordance with Neb. Rev. Stat. §71-155 by another state or jurisdiction to practice medicine and surgery or osteopathic medicine

and surgery based upon acts by the applicant, licensee or permittee similar to acts described in 172 NAC 88-012 and 88-013. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, registration or permit or the taking of other disciplinary measures against it by another state or jurisdiction will be conclusive evidence.

10. Unprofessional conduct, which term includes all acts specified in Neb. Rev. Stat. § 71-148 and such other acts specified as unprofessional conduct by these regulations.
11. Use of untruthful or improbable statements, or flamboyant, exaggerated, or extravagant claims concerning such licensee's professional excellence or abilities, in advertisements.
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act.
13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes.
14. Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the department relating to the licensee's profession, sanitation, quarantine, or school inspection.
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law for which the licensee or permittee is not licensed or permitted to practice.
16. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act.
17. Failure to file a mandatory report required by Neb. Rev. Stat. §71-168.
18. Practicing the profession of Medicine and Surgery or Osteopathic Medicine and Surgery while his/her license or permit is suspended or in contravention of any limitation placed upon his/her license or permit.
19. Physical or mental illness or physical or mental deterioration or disability which would render the applicant, licensee or permittee unqualified to practice his/her profession or occupation.
20. Refusal to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. §§ 71-161.12 to 71-161.16 to determine his or her qualifications to practice or continue in the practice of the profession or occupation for which application was made or for which s/he is licensed or holds a permit.

88-012.04 Hearings before the Department will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

88-013 UNPROFESSIONAL CONDUCT: This section defines the following acts as unprofessional conduct, pursuant to Neb. Rev. Stat. §71-148(22), and where applicable, further construes the unlawful or unprofessional acts listed in Neb. Rev. Stat. §§71-147 and 71-148.

1. Any departure from or failure to conform to the ethics of the medical profession, which ethics are found in the American Medical Association's Code of Medical Ethics and Opinions;
2. Misrepresentation of material facts in applying for or procuring renewal of a license or permit;

3. Misrepresenting one's credentials in an application submitted to a healthcare facility, insurance company, or prospective employer;
4. The use of any false or deceptive statement in any advertisement;
5. The refusal to cooperate or the failure to furnish requested information during a licensing or discipline investigation by the Department;
6. Prescribing drugs to an individual the physician has never met based solely on answers to questions provided by the internet, telephone, or FAX;
7. Prescribing drugs to an individual without first establishing a proper physician-patient relationship. A proper physician-patient relationship requires that the physician make an informed medical judgement upon examination, diagnosis, and formulation of a treatment plan and that arrangements exist to insure availability of the physician or physician coverage for follow-up patient care;
8. Disruptive physician behavior as manifested by a physician's aberrant behavior which interferes with patient care or could reasonably be expected to interfere with patient care, including, but not limited to, the following:
 - a. Outbursts of rage or violent behavior;
 - b. Repeated failure to respond to calls;
 - c. Throwing instruments, charts, or objects;
 - d. Insulting comments to a patient, patient's family, physicians, or healthcare staff;
 - e. Striking or assaulting a patient, patient's family, physicians, or healthcare staff; and
 - f. Poor hygiene;
9. Willfully or negligently violating the confidentiality between physician and patient except as required by law;
10. Practicing medicine under a false or assumed name;
11. Allowing another person or organization to use his or her license to practice medicine;
12. Except as otherwise permitted by law, prescribing, selling, administering, distributing, ordering, or giving to an addict or any person previously drug dependent, any drug legally classified as a controlled substance;
13. Violating any federal law or regulation relating to controlled substances;
14. Failure to transfer pertinent and necessary medical records to another physician in a timely fashion when requested to do so by the patient or by a designated representative of the patient;
15. Use of any therapy, drug or device in a manner inconsistent with the federal Food, Drug and Cosmetic Act;
16. Exercising influence on the patient in such a manner as to exploit the patient for the financial gain of the licensee or of a third party, which includes, but is not limited to, the promotion or sale of services, goods, appliances, or drugs;
17. Refusing to provide professional service to a person because of such person's race, creed, color, or national origin;
18. Prescribing, selling, administering, or distributing, any drug legally classified as a prescription drug other than for proper medical purposes;
19. Prescribing, dispensing or administering Schedule II controlled substances as defined in Neb. Rev. Stat. §28-405(a) including amphetamines and similar Schedule II sympathomimetic drugs in the treatment of exogenous obesity for a period in

- excess of thirty days in any one year, or the non-therapeutic use of injectable amphetamines;
20. Signing a blank, undated or predated prescription form;
 21. Any conduct or practice outside the normal standard of care in the State of Nebraska which is or might be harmful or dangerous to the health of the patient or the public;
 22. Charging a fee for services not rendered or dividing a professional fee for patient referrals among health care providers or health care institutions or between these providers and institutions or a contractual arrangement which has the same effect;
 23. Prescribing, dispensing or administering anabolic-androgenic steroids to a person for other than therapeutic purposes;
 24. Lack of or inappropriate direction, collaboration or direct supervision of a licensed, certified or registered health care provider employed by, supervised by or assigned to the physician;
 25. Commission of any act of sexual misconduct, or exploitation related to the person's practice of medicine and surgery, and osteopathic medicine and surgery. Sexual misconduct in the practice of medicine means violation of the physician-patient relationship through which the physician uses said relationship to induce or attempt to induce the patient to engage, or to engage or attempt to engage the patient, in sexual activity; committing any act which may reasonably be interpreted as intended for the sexual arousal or gratification of the practitioner, the patient, or both;
 26. Failure to keep and maintain adequate records of treatment or service; adequate records means legible medical records containing, at a minimum, sufficient information to identify the patient, support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment; and, when investigative or unproven therapies are utilized, the records must include written informed patient consent;
 27. Failure to comply with Neb. Rev. Stat. §§71-604, 71-605, and 71-606 relating to the signing of birth and death certificates; and
 28. Refusal to undergo an examination defining competency as required by the Board.

88-014 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

88-014.01 Eligibility

88-014.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

88-014.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

88-014.01C An individual who practices prior to re-credentialing, is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 88-017, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

88-014.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have their credential restored from lapsed to active status by the Department upon proof to the Department that they meet the requirements pursuant to 172 NAC 88-003 or 88-004.

88-014.02A If the Department has evidence that an applicant has practiced while her/his credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 88-017;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

88-014.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

88-014.02C The Department will act within 150 days on all completed applications.

88-014.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 88-014.02A and 88-014.02B are final.

88-014.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee and any other applicable fees;
 - c. Meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of medicine and surgery ; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (3) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (4) Demonstrate other proof of professional competency as approved by the Board.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

88-014.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Date of birth and place of birth;
 - f. Name of professional school and date of graduation;
 - g. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your license on probation?
 - (4) Have you voluntarily surrendered a license issued to you by

- a licensing or disciplinary authority?
- (5) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
- (6) Have you been requested to appear before any licensing agency?
- (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
- (8) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
- (9) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
- (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
- (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
- (13) Have you been convicted of a felony?
- (14) Have you been convicted of a misdemeanor?
- (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (17) Have you surrendered your state or federal controlled substances registration?
- (18) Have you had your state or federal controlled substances registration restricted in any way?
- (19) Have you been notified of any malpractice claim against you?
- h. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of medicine and surgery; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (3) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (4) Demonstrate other proof of professional competency as approved by the Board.
- i. List your activities for the time period since your credential was active.
- j. A statement describing all:

- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- k. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee and any other applicable fees.
3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
4. Official documentation of meeting one of the provisions of 172 NAC 88-014.03 item 1c.

88-014.04A If an applicant has practiced while her/his credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 017;
2. Initiate disciplinary action against the credential;

3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

88-014.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

88-014.04C In either event pursuant to 88-014.04A or 88-014.04B, a notice and the opportunity for hearing will be given to the applicant.

88-014.04D The Department will act within 150 days on all completed applications.

88-014.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements;
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
 - c. Meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of medicine and surgery ; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (3) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (4) Demonstrate other proof of professional competency as approved by the Board.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential, or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

88-014.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the

following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Date of birth and place of birth;
 - f. Name of professional school and date of graduation;
 - g. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (1) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (2) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (3) Has any licensing or disciplinary authority placed your license on probation?
 - (4) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (5) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (6) Have you been requested to appear before any licensing agency?
 - (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (8) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (9) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (13) Have you been convicted of a felony?
 - (14) Have you been convicted of a misdemeanor?
 - (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled

- substances registration?
- (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
- (17) Have you surrendered your state or federal controlled substances registration?
- (18) Have you had your state or federal controlled substances registration restricted in any way?
- (19) Have you been notified of any malpractice claim against you?
- h. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of medicine and surgery; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (3) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (4) Demonstrate other proof of professional competency as approved by the Board.
- i. List your activities for the time period since your credential was active.
- j. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an

official copy of the disciplinary action, including charges and disposition; and

- (3) Disciplinary charges pending against any professional credential held by the applicant.
- k. Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees.
3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
- (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 88-017 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 88-014.06B.
4. Official documentation of meeting one of the provisions of 172 NAC 014.05 item 1c.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

88-014.06A The Board's recommendation to the Department may be to:

1. Reinstate the credential;
2. Reinstate the credential with terms, conditions or restrictions; or
3. Deny reinstatement.

88-014.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstate the credential: An Administrative Penalty may be assessed pursuant to 172 NAC 88-017 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstate the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to

the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 88-017 if warranted; or

- b. Deny reinstatement: In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

88-014.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement as prescribed in Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees;
 - c. Meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of medicine and surgery; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (2) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (3) Demonstrate other proof of professional competency as approved by the Board.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

88-014.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year

following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) Date of birth and place of birth;
 - (6) Name of professional school and date of graduation;
 - (7) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome.
 - (8) These questions pertain to the time period since your license was active.
 - (a) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your license on probation?
 - (d) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing agency?
 - (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (j) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics,

- barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you surrendered your state or federal controlled substances registration?
 - (r) Have you had your state or federal controlled substances registration restricted in any way?
 - (s) Have you been notified of any malpractice claim against you?
- d. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:
- (1) Have been in the active practice of the profession of medicine and surgery; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (3) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (4) Demonstrate other proof of professional competency as approved by the Board.
- e. List your activities for the time period since your credential was active.
- f. A statement describing all:
- (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;

- [2] Arrest records;
 - [3] A letter from the petitioner explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - (a) If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the petitioner.
 - g. Verification that the continuing competency requirements for renewal have been met.
- 2. The renewal fee, the late fee of \$75 and any other applicable fees.
 - 3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 88-017 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 88-014.08F.
 - 4. Official documentation of meeting one of the provisions of 172 NAC 88-014.07 item 2c.

88-014.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

88-014.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

88-014.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

88-014.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

88-014.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

88-014.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

88-014.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

88-014.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or
 - b. Grant reinstatement with terms, conditions, or restrictions.

88-014.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation.

The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

88-014.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

88-014.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

88-014.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

88-014.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement:
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law.
3. Meet one of the following within the three years immediately preceding the application for reinstatement:
 - a. Have been in the active practice of the profession of medicine and surgery; or
 - b. Pass the SPEX Examination or the COMVEX-USA Examination; or
 - c. Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - d. Demonstrate other proof of professional competency as approved by the Board.

4. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

88-014.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) Date of birth and place of birth;
 - (6) Name of professional school and date of graduation;
 - (7) Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period since your credential was active.
 - (a) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
 - (b) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
 - (c) Has any licensing or disciplinary authority placed your license on probation?
 - (d) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
 - (e) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
 - (f) Have you been requested to appear before any licensing agency?

- (g) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
 - (h) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
 - (i) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
 - (jj) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
 - (k) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
 - (l) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
 - (m) Have you been convicted of a felony?
 - (n) Have you been convicted of a misdemeanor?
 - (o) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
 - (p) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?
 - (q) Have you surrendered your state or federal controlled substances registration?
 - (r) Have you had your state or federal controlled substances registration restricted in any way?
 - (s) Have you been notified of any malpractice claim against you?
- d. Indicate that you meet one of the following within the three years immediately preceding the application for reinstatement:
 - (1) Have been in the active practice of the profession of medicine and surgery; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (3) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (4) Demonstrate other proof of professional competency as approved by the Board.
- e. List your activities for the time period since your credential was active.
- f. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period

since the credential was suspended, limited, or revoked;

(a) If the petitioner has been convicted of a felony or misdemeanor, provide copies of:

- [1] Official Court Record, which includes charges and disposition;
- [2] Arrest records;
- [3] A letter from the petitioner explaining the nature of the conviction;
- [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
- [5] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.

(2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;

(a) If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

(3) Disciplinary charges pending against any professional credential held by the petitioner;

g. Any continuing competency activities.

2. The reinstatement fee of \$75.

3. Attestation by the petitioner, if the credential was revoked or suspended:

- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
- b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

(1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 88-017 in which case a separate notice and opportunity for hearing will be sent to the petitioner.

(2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken as provided in 172 NAC 88-014.10G.

4. Official documentation of meeting one of the provisions of 172 NAC 88-014.09 item 3.

88-014.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

88-014.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

88-014.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

88-014.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

88-014.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

88-014.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

88-014.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of the current petition, the Board may grant or deny, without a hearing, the current petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

88-014.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as

shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

88-014.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

88-014.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent,

material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

88-014.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board.

The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.

- a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
- b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

88-014.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

88-014.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time.

88-014.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

88-014.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. Date of birth and place of birth;
 - f. Name of professional school and date of graduation;
 - g. Answer the following questions either yes or no; if you answer yes explain the circumstances and outcome. These questions pertain to the time period

since your credential was active.

- (1) Has any state or territory of the U.S. taken any of the following actions against your license?
Denied Suspended Revoked Limited
- (2) Has any licensing or disciplinary authority taken any of the following actions against your license?
Limited Suspended Restricted Revoked
- (3) Has any licensing or disciplinary authority placed your license on probation?
- (4) Have you voluntarily surrendered a license issued to you by a licensing or disciplinary authority?
- (5) Have you voluntarily limited in any way a license issued to you by a licensing or disciplinary authority?
- (6) Have you been requested to appear before any licensing agency?
- (7) Have you been notified of any charges or complaints filed against you by any licensing or disciplinary authority or criminal prosecution authority?
- (8) Are you aware of any pending disciplinary actions against your license in any jurisdiction?
- (9) Are you aware of any on-going investigations of a disciplinary complaint against your license in any jurisdiction?
- (10) Have you been addicted to, dependent upon or chronically impaired by alcohol, narcotics, barbiturates, or other drugs which may cause physical and/or psychological dependence?
- (11) Have you voluntarily entered or been involuntarily admitted to an institution or health care facility for treatment of a mental or emotional disorder/condition?
- (12) Have you been diagnosed with or treated for bipolar disorder, schizophrenia, or any psychotic disorder?
- (13) Have you been convicted of a felony?
- (14) Have you been convicted of a misdemeanor?
- (15) Have you been denied a Federal Drug Enforcement Administration (DEA) Registration or state controlled substances registration?
- (16) Have you been called before any licensing agency or lawful authority concerned with DEA controlled substances?

- (17) Have you surrendered your state or federal controlled substances registration?
 - (18) Have you had your state or federal controlled substances registration restricted in any way?
 - (19) Have you been notified of any malpractice claim against you?
- h. Indicate that you meet one of the following within the three years immediately preceding the application for restoration:
 - (1) Have been in the active practice of the profession of medicine and surgery; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (3) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (4) Demonstrate other proof of professional competency as approved by the Board.
- i. List your activities for the time period since your credential was active.
- j. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;

- (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
- k. Any continuing competency activities.
- l. Attest:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of her/his credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of her/his credential.
- m. Official documentation of meeting one of the following within the three years immediately preceding the petition for restoration:
 - (1) Have been in the active practice of the profession of medicine and surgery; or
 - (2) Pass the SPEX Examination or the COMVEX-USA Examination; or
 - (3) Pass a Board Specialty Examination as recommended by the American Board of Medical Specialties; or
 - (4) Demonstrate other proof of professional competency as approved by the Board.

88-014.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 88-017;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to restore the credential; or
- 4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

88-014.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request for restoration of the credential; or
- 3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

88-014.11A4 In either event pursuant to 172 NAC 88-014.11A2 or 88-014.11A3, a

notice and the opportunity for hearing will be given to the applicant.

88-014.11A5 The Department will act within 150 days on all completed applications.

88-014.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time.

88-014.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11, will be automatically restored at the expiration of that period of time.

88-014.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 88-017.

88-014.13 Credentials Voluntarily Surrendered or Limited Permanently.

88-014.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

88-015 SCHEDULE OF FEES: The following fees have been set by the Department:

88-015.01 Initial Fee for a License to Practice Medicine and Surgery: By an applicant for a license to practice medicine and surgery, the fee of \$200 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

88-015.01A Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$50 and the Licensee Assistance Program fee of \$1.

88-015.02 Initial Fee for a License to Practice As An Osteopathic Physician: By an applicant for a license to practice as an osteopathic physician the fee of \$200 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

88-015.02A Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$50 and the Licensee Assistance Program fee of \$1.

88-015.03 Initial Fee for a License to Practice Osteopathic Medicine and Surgery: By an applicant for a license to practice osteopathic medicine and surgery, the fee of \$200 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

88-015.03A Proration of Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$50 and the Licensee Assistance Program fee of \$1.

88-015.04 Initial Fee for a Locum Tenens Permit: By an applicant for a locum tenens permit, the fee of \$100 and the Licensee Assistance Program fee of \$1.

88-015.05 Initial Fee for a Temporary Educational Permit: By an applicant for a Temporary Educational permit, the fee of \$25 and the Licensee Assistance Program fee of \$1.

88-015.06 Initial Fee for a Temporary Visiting Faculty Permit: By an applicant for a Temporary Visiting Faculty Permit, the fee of \$25 and the Licensee Assistance Program fee of \$1.

88-015.07 License Renewal Fee For A License To Practice Medicine and Surgery: By an applicant for renewal on a biennial basis of a license to practice medicine and surgery, the fee of \$75 and the Licensee Assistance Program fee of \$2.

88-015.08 License Renewal Fee For A License To Practice As An Osteopathic Physician: By an applicant for a renewal on a biennial basis of a license to practice as an osteopathic physician, the fee of \$75 and the Licensee Assistance Program Fee of \$2.

88-015.09 License Renewal Fee For a License To Practice Osteopathic Medicine and Surgery: By an applicant for renewal on a biennial basis, of a license to practice osteopathic medicine and surgery, the fee of \$75 and the Licensee Assistance Program Fee of \$2.

88-015.10 License Renewal Fee for a Temporary Educational Permit: By an applicant for renewal on an annual basis of a Temporary Educational Permit, the fee of \$25 and the Licensee Assistance Program fee of \$1.

88-015.11 License Renewal Fee for a Temporary Visiting Faculty Permit: By an applicant for renewal on an annual basis of a Temporary Visiting Faculty Permit, the fee of \$25 and the Licensee Assistance Program fee of \$1.

88-015.12 Inactive License Status Fee: By an applicant to have his/her license placed on an inactive status, the fee of \$25.

88-015.13 Renewal Late Fee: By an applicant for renewal of a license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

88-015.14 Certification of License Fee: For issuance of a certification of a license, the fee of \$25. The certification includes information regarding:

1. The basis on which a license was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the license; and
4. The current status of the license.

88-015.15 Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.

88-015.16 Duplicate License Fee: For a duplicate original license document or reissued license, the fee \$10.

88-015.17 Administrative Fee: For a denied license or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the licensing fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

88-015.18 Reinstatement Late Fee: For reinstatement of a license for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

88-015.19 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.

88-016 CONTINUING COMPETENCY

88-016.01 License to practice medicine and surgery and osteopathic medicine and surgery.

88-016.01A On or before October 1, 2004, and on or before October 1 of each even-numbered year thereafter, each physician and osteopathic physician and surgeon who is licensed in the State of Nebraska must, as a condition for renewal of his/her license:

1. Earn one of the following in order to meet the continuing competency requirement:
 - a. 50 hours of Category 1 continuing education approved as follows:
 1. Approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA);
 2. One year of participation in an approved graduate medical education program is approved as 50 hours of Category 1 continuing education.
 3. Hours are to be earned within the 24 months immediately preceding the date of expiration, except that a licensee who has earned more than the 50 hours required for license renewal for one 24 month renewal period is allowed to carry over up to 25 hours to the next 24 month renewal period.
 - or
 - b. The AMA Physician's Recognition Award or the AOA CME Certification earned within the 24 months immediately preceding the date of expiration; and

88-016.01B Each licensee must submit to the Department an attestation that s/he has met the continuing competency requirement for the 24 months immediately preceding the date of expiration; and

88-016.01C Each licensee is responsible for maintaining their records verifying attendance at category 1 continuing education programs or otherwise meeting the continuing competency requirement.

88-016.02 Temporary Educational Permit and Temporary Visiting Faculty Permit.

88-016.02A On or before July 1, 2004, and on or before July 1 each year thereafter, each holder of a Temporary Educational Permit or Temporary Visiting Faculty Permit who is licensed in the State of Nebraska must, as a condition for renewal of his/her license:

1. Earn one of the following in order to meet the continuing competency requirement:
 - a. Twenty-five hours of Category 1 continuing education approved as follows:
 - (1) Approved by the Accreditation Council for Continuing Medical Education (ACCME) or the American Osteopathic Association (AOA);
 - (2) One year of participation in an approved graduate medical education program is approved as 50 hours of Category 1 continuing education.
 - (3) Hours are to be earned within the 12 months immediately preceding the date of expiration.
 - or
 - b. The AMA Physician's Recognition Award or the AOA CME Certification within the 12 months immediately preceding the date of expiration; and

88-016.02B Each permit-holder must submit to the Department an attestation that s/he has met the continuing competency requirement for the renewal period immediately preceding the license renewal date; and

88-016.02C Each permit-holder is responsible for maintaining their records verifying attendance at category 1 continuing education programs or otherwise meeting the continuing competency requirement.

88-016.03 Waiver of Continuing Competency: The Department, on the recommendation of the Board, may waive the continuing competency requirement, in whole or in part, when a licensee or permit-holder submits documentation that circumstances beyond his/her control prevented the completion of such requirements. Such circumstances will include situations in which the licensee or permit-holder:

1. Holds a Nebraska license or permit but is not practicing his/her profession in Nebraska;
2. Has served in the regular armed forces of the United States during part of the renewal period immediately preceding the license renewal date;
3. Has suffered from a serious or disabling illness or physical disability during the renewal period immediately preceding the license renewal date which prevented completion of the continuing competency requirements;
4. Was first licensed within the renewal period immediately preceding the license renewal date.

88-016.03A The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the licensee's control prevented completion of the requirements.

1. When the Department determines to grant a waiver of continuing competency, the licensee will be notified within 30 days of receipt of the application.

88-016.03B When the Department determines to deny an application for waiver of continuing competency requirements it sends to the licensee by certified mail to the last name and address of record in the Department, a notice setting forth the reason for the denial determination.

1. The licensee has 30 days from the date of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with The Administrative Procedures Act and 184 NAC 1, Rules of Practice and Procedure of the Department.
2. The Department will issue at the conclusion of the appeal under 184 NAC 1, a final order setting forth the results of the appeal.

88-016.04 Audit of Continuing Competency: The Board may biennially select, in a random manner, a sample of the renewal applications for audit of continuing competency requirements. Each credentialed person selected for audit will be required to produce documentation of the continuing competency activities s/he has completed in order to meet the requirements for the renewal period immediately preceding the license renewal date.

1. The Department will send to each licensee or permit-holder selected for audit a notice of audit;
2. When selected for audit, the licensee or permit-holder must provide satisfactory documentation of attendance at or participation in approved continuing competency activities to meet the requirements for the renewal period immediately preceding the expiration date.
3. Failure to comply with the audit may be grounds for non-renewal or revocation of the license.

88-017 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

88-017.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice;
6. Other government records indicate that the person was engaged in practice; and
7. The person or entity opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

88-017.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice will specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

88-017.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these

statutes.

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